

## APPEAL NO. 93458

This appeal arises under the Texas Workers' Compensation Act, TEX. REV. CIV. STAT. ANN. arts. 8308-1.01 through 11.10 (Vernon Supp. 1993) (1989 Act). A contested case hearing was held in (city), Texas, on May 12, 1993, to determine appellant's (claimant's) correct impairment rating based on his compensable injury of (date of injury). Hearing officer (hearing officer) accepted the date of maximum medical improvement (MMI) and the impairment rating found by the designated doctor appointed by the Texas Workers' Compensation Commission (Commission). The claimant contends the great weight of the other medical evidence is contrary to the designated doctor's opinion, which did not include any impairment rating due to claimant's sensory deficit. There was no response by the carrier.

## DECISION

We affirm the hearing officer's decision and order.

According to the documentary evidence in the record, the claimant injured his back when he fell through a ceiling on (date of injury), while working for (employer). He treated with (Dr. B), who on October 19, 1992, certified MMI with a 36% combined impairment of the whole person. This impairment rating included 24% impairment due to pain/sensory deficit of nerve roots/plexus. The claimant testified that he has had a problem with his feet becoming numb and falling asleep.

The Commission thereafter appointed (Dr. W) as designated doctor. Dr. W found claimant to have reached MMI as of February 8, 1993, with a 13% impairment rating. Dr. W's report reflects that he reviewed Dr. B's report, and that he questioned claimant about his sensory loss. The report stated, "The patient states that his sensation is normal today. He has no sensory loss although occasionally he has some in the lower extremity on the right." The claimant stated at the hearing that at the time of his visit to Dr. W he had no loss of sensation, although he said that was "pretty much abnormal." He also said he told Dr. W that his back was not hurting that day.

On March 15, 1993, Dr. B wrote both the carrier and claimant's attorney, stating his disagreement with Dr. W's 13% impairment rating. Specifically, he said Dr. W did not assign any impairment due to sensory deficit, did not assign any deficit to decrease in lumbosacral range of motion and the value placed upon the lumbosacral plexus, and did not assign any value to the restrictions in range of motion on straight leg raising that was done in the tests administered by Dr. B.

The hearing officer stated that the designated doctor's report was thorough and done in accordance with the rules and procedures established by the Commission and the guidelines set out in the correct version of the American Medical Association's Guides to the Evaluation of Permanent Impairment. Concluding that Dr. W's report was not contrary to the great weight of the other medical evidence, the hearing officer determined that claimant

reached MMI on February 8, 1993, with a 13% impairment rating.

In his appeal, claimant basically lays out the concerns raised in Dr. B's March 15th letters.

We have reviewed the record in this case and find no cause to reverse the determination of the hearing officer. As the 1989 Act provides, the report of a designated doctor shall have presumptive weight unless the great weight of the other medical evidence is to the contrary. Articles 8308-4.25(b) and 4.26(g). As this panel has held, to overturn such report requires more than a mere balancing of the evidence. Texas Workers' Compensation Commission Appeal No. 92412, decided September 28, 1992.

As the hearing officer noted, Dr. W's report indicates he reviewed Dr. B's findings and that he found claimant's sensations to be normal on the day of the examination. Further, Dr. W's report shows that he tested claimant for range of motion and assigned impairment in accordance with his findings. We agree with the hearing officer that Dr. W's report is not contrary to the great weight of the other medical evidence, Dr. B's disagreement notwithstanding. See Texas Workers' Compensation Commission Appeal No. 93328, decided June 2, 1993.

The decision and order of the hearing officer are affirmed.

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Lynda H. Nesenholtz  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge